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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,966	06/22/2001	Bryan K. Ruggles	077056-0341	7669

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DENVER, CO 80202-5647

EXAMINER

VANATTA, AMY B

ART UNIT PAPER NUMBER

3765

DATE MAILED: 02/26/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

Applicant(s)

09/887,966

RUGGLES ET AL.

Examiner

Art Unit

Amy B. Vanatta

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-- The MAILING DATE of this communication appears n the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 5-8 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse of Group I in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the Examiner does not state why a different order for the method steps is a materially different process and the Examiner does not state why an apparatus having one heating element is a materially different apparatus. This is not found persuasive because it is clear that such examples are materially different and patentably distinct, in that a method having steps in a different order is clearly a different method and an apparatus having a different structure is clearly a distinct apparatus. The order of the method steps in applicant's invention has been given weight in determining patentability of the claimed method in this Office Action. Should applicant traverse on the ground that the exemplar method and apparatus are not patentably distinct from the claimed method and apparatus and are obvious variants, applicant should identify such evidence or clearly admit on the record that this is the case. In either instance, the examiner may use such evidence or admission in a rejection under 35 U.S.C. 103(a).

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 5-8 and 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites "the respective substantially opposite edges" without antecedent basis.

Claim 5 recites "the first and second sheets of sheer material" without antecedent basis, since the sheets were not previously recited as being of sheer material.

Claim 6 recites "the window covering" without antecedent basis.

Claim 16 is indefinite in reciting a step of "providing a three-dimensional fabric comprises multiple materials". Such a limitation is confusing. It appears that "comprises" should read as "comprising".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 16-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Christie et al (US 3,149,003).

Christie et al disclose a method including the steps of providing a three dimensional fabric (tubular fabric 14). Christie discloses that the fabric may include a combination of yarns selected from multi-filament, mono-filament, or staple fibers (col.

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1, lines 27-30). Since these different yarn structures form different materials due to their differing structure (i.e. multi-filament structure, mono-filament structure, or staple fibers), they form "multiple materials" as claimed. Alternatively, the crimped yarns (the warp yarns) form a material which is different from the uncrimped yarn (weft yarns), thus forming a fabric made of multiple materials to the extent recited in claim 16 (col. 13, lines 21-23). Christie discloses a step of feeding the fabric along a pathway and tensioning the fabric in a first direction (i.e. the transverse direction; col. 5, lines 9-12 and col. 4, lines 70-73). A step of applying heat to the fabric as the fabric travels along the pathway is also disclosed (col. 8, lines 58-66). A step of removing the tension from the fabric in the first direction is disclosed (the tension is removed when the fabric is no longer engaged by the tenter pins; see col. 6, lines 21-27). The method includes steps of tensioning the fabric in a second direction (i.e. the longitudinal direction, by means of rolls 10,12; col. 4, lines 66-69) and removing the tension in the second direction (by moving rolls 10,12 together and removing the fabric from the rolls). A tentering frame is used for tensioning the fabric in the first direction (col. 5, lines 9-37) as in claim 18. The endless tenter chains 62,64 form endless belts which are conveyor belts to the extent recited in claim 20, and these belts carry the fabric along at least a portion of the pathway as claimed.

Allowable Subject Matter

6. Claims 1-4 are allowed.

7. Claims 5-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
8. Claim 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: Claim 1 and the claims dependent thereon are allowable since the recited methods steps are not disclosed in the prior art as being performed on a fabric having at least three layers. Claim 19 is allowable since the prior art does not disclose a method including the steps as claimed being performed on a three dimensional fabric and including providing a plurality of nip units for tensioning the fabric in the second direction.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

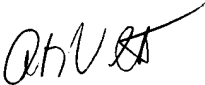
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is (703) 308-2939. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Amy B. Vanatta
Primary Examiner
Art Unit 3765

abv
December 29, 2003